IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

WP(C).No. 30550 of 2007(J)

PETITIONER:

M/S.PALAKKAD ROLLER FLOUR MILLS (PVT) LTD., KINASSERY, PALAKKAD REPRESENTED BY ITS MANAGING DIRECTOR, A.AYUBKHAN, S/O.ABDUL RASAK, AGED 48 YEARS.

BY ADV. SRI.P.RAMACHANDRAN

RESPONDENTS:

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1. THE TAHSILDAR (RR), OFFICE OF THE TAHSILDAR (R.A.) PALAKKAD - 678 001.

2. THE DEPUTY TAHSILDAR, REVENUE RECOVERY, CHITTOOR, PALAKKAD DIST - 678 001.

3. THE KERALA STATE INDUSTRIAL DEVELOPMENT CORPORATION LTD., KESTON ROAD, KOWDIAR, TRIVANDRUM - 695 003, REPRESENTED BY ITS EXECUTIVE DIRECTOR.

BY GOVERNMENT PLEADER SRI.BEJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI, J.

W.P.(C).No.30550 of 2007 J

Dated this the 16th day of October, 2007.

JUDGMENT

The petitioner, a company incorporated under the Companies Act { for short "the Act"} availed of a loan of Rs.81 lakhs from the Kerala State Industrial Development Corporation, the 3rd respondent, in the year 2001. Ext.P1 agreement evidences the said fact. There was default in repayment of the loan amount. Revenue recovery proceedings have been initiated, as evidenced by Ext.P2. According to the petitioner, it did not receive a notice under Section 34(1) of the Revenue Recovery Act, as the notice has been served only on the Directors of the Company.

2. A notice under Section 34 of the Act is essentially intended to intimate the liability of the defaulter prior to attachment of immovable property. The existence of the liability and any other contentions touching upon the said liability is a matter beyond the

recovery officer, exercising power under Section 34(1) of the Act. I do not think it necessary to express any opinion finally in this regard in the nature of the directions which are proposed to be given hereunder.

3. I have heard learned standing counsel for the 3rd respondent and the learned Government Pleader appearing for the State.

Writ petition is disposed of directing the petitioner to file a detailed objection as regards the revenue recovery proceedings touching upon the principal liability before the 3rd respondent within a period of two weeks from today. The 3rd respondent shall hear a representative of the petitioner and consider any relief to be granted as regards re-scheduling the repayment as such. A decision in this regard shall be taken within two weeks from the date of receipt of the objection from the petitioner. Further proceedings by way of confirmation of the sale, pursuant to Ext.P3

notice shall be kept in abeyance till a decision is taken by the 3rd respondent as aforementioned, provided the petitioner remits an amount of Rs.35 lakhs within five weeks from today.

Sd/-
(V.GIRI)
JUDGE

sk/

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P.S. To Judge